

Application No. 10/625,633
Amendment Dated July 16, 2009
Reply to Office Action dated April 27, 2009

REMARKS

The Office Action of April 27, 2009 has been reviewed and carefully considered by the applicant.

In the Office Action, claims 1-3, 5-12, 16-17, 28, 68-69, 71-75, and 81-84 have been rejected under 35 USC §101 as directed to non-statutory subject matter. Claims 16, 74-80, and 82-83 have been rejected under 35 USC §112.

Claims 13, 71, and 72 have been objected to.

In the present response, applicant amended claims 1, 11, 13, 16, 71, 72, 74, 76, 77, 82, and 83. These amendments and the following remarks address all of the rejections of the claims raised by the Examiner.

Interview Summary

The applicants thank the Examiner for his time in conducting a telephonic interview regarding proposed claim amendments to address the current rejections to the claims under 35 USC §101. The present amendments to the claims are offered in light of the discussion of that interview.

Claim Objections

Claims 13, 74, and 75 have been objected to due to punctuation informalities. By the present Amendment, these informalities have been corrected.

Claim Rejections Under 35 USC §101

Claims 1-3, 5-12, 16-17, 28, 68-69, 71-75, and 81-84 have been rejected under 35 USC §101 for being directed to non-statutory subject matter. More specifically, the Examiner has taken issue with the claimed feature found in independent claim 1 of "a plurality of sensors generating . . ." and "a controller receiving . . ." as these are method steps written in a system as an apparatus type claim. Claim 1 is presently amended to now recite these features as "a plurality of sensors that generate . . ." and "a controller that receives . . .". Applicant submits that this amendment positively recites the two highlighted features in apparatus form and therefore the claim falls within statutory subject matter as defined by §101. Claims 2, 3, 5-10,

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and 68 all depend directly and/or indirectly from independent claim 1, and it is also believed that these claims too are directed towards statutory subject matter.

Claims 11-12, 16-17, 28, 69, 71-75, and 81-84 have been rejected under 35 USC §101 as being drawn to a process that does not meet the "machine --or-- transformation test." Independent claims 11, 72, and 74 have been amended to include the specific machine of a logic and a controller in not insignificant steps. Therefore, independent claims 11, 72, and 74, as well as 12, 16-17, 28, 69, 71, 73, 75, and 81-84, which are dependent from these independent claims, are all believed to be within statutory subject matter as defined by §101.

Claim Rejections Under 35 USC §112

Claims 16 and 74-75 have been rejected under 35 USC §112, first paragraph, as failing to comply with written description requirements. In response, the applicants have amended claims 16 and 74 to remove reference to "geographically remote location" or "geographically defused manner." In claim 16, this feature has been replaced by "a data storage device remote to the controller" while in claim 74 this feature has been replaced with "between a plurality of data storage devices." Both of these newly claimed features are believed to find support in the specification as filed and therefore meet the written description requirement under §112.

Claims 16, 74-80, and 82-83 have been rejected under 35 USC §112, second paragraph, as being indefinite. Claims 16 and 74 have been amended as identified above and therefore are believed to now be definite in the features claimed.

Claim 76 has been amended to remove the reference to "a remote database." This feature has been replaced with "at least one database remotely located from the data acquisition device." The newly claimed feature specifies from what the database is remotely located (the data acquisition device) and therefore is believed to be definite.

Claim 77 has been rejected as being indefinite as being unclear whether it is a structure, an algorithm, or software. Applicant submits that claim 77 is definite as a structure finding supporting disclosure in Fig. 1 and paragraph [0027]. The bill generator may be implemented as a structure by a processor operating computer software such as to perform the function of

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generating bills in response to the transfer of algorithm required by the system. Therefore, claim 77 is believed to be definite and allowable.

Claim 82 has been amended to remote the "remotely located" feature from the claim, therefore only claiming "a database" feature which is definite in its scope.

Claim 83 has been amended to now recite "receiving a clinician selection of the first rule set." This feature is now claimed in a definite form and therefore is believed allowable.

Conclusion

By the present amendments and arguments, all of the rejections in the present Office Action have been addressed by the applicant. As the claims as currently presented fulfill the requirements upon which these rejections were based, the present application is believed to be in a condition for allowance with claims 1-3, 5-14, 16, 17, 28, 68, 69, and 71-84. Such action is earnestly requested.

The applicants urge the Examiner to contact the undersigned below directly should any additional issues arise in the prosecution of this application, such as to expedite such further prosecution.

Respectfully submitted,

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